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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PJH

PAMELA WALKER, GWENDOLYN HARVEY-
NOTO, FELISHA THOMAS, JENNIFER
KEETON, OLGA KINCADE, EMIKO
THEODORIDIS, MATTIE SPIRES-MORGAN,
and JEREMY DEJUSUS,

No.

2406

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

- 1) Gender Discrimination, Title VII
- 2) Gender Discrimination, FEHA
- 3) Gender Employment Restriction Title VII
- 4) Gender Employment Restriction, FEHA
- 5) Retaliation for Protected Activity, Title VII
- 6) Retaliation for Protected Activity, FEHA
- 7) Failure To Prevent Violation of FEHA

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO,

Defendants.

JURY TRIAL DEMANDED

Plaintiffs PAMELA WALKER, GWENDOLYN HARVEY-NOTO, FELISHA THOMAS, JENNIFER KEETON, OLGA KINCADE, EMIKO THEODORIDIS, MATTIE SPIRES-MORGAN and JEREMY DEJUSUS complain of Defendant CITY AND COUNTY OF SAN FRANCISCO, and allege:

FACTS COMMON TO ALL CAUSES OF ACTION

A. Jurisdiction and Venue

1. Jurisdiction of matters claimed herein is properly before the United States District Court, Northern District of California pursuant to 28 USC 1331. Jurisdiction of all California claims is proper pursuant to this court's Supplemental Jurisdiction, specifically, 28 USC 1367(a).
2. Venue of all matters claimed herein is properly before the United States District Court for the Northern District of California as each of the acts alleged occurred within this district.
3. Pursuant to United States District Court, Northern District of California, Local Rule 3-2(d), this action is being commenced in San Francisco, California, because the facts and circumstances of this action arose in San Francisco County, California.

1 **B. Identity of Plaintiff**

2 4. Plaintiffs PAMELA WALKER, GWENDOLYN HARVEY-NOTO, FELISHA THOMAS,
3 JENNIFER KEETON, OLGA KINCADE, EMIKO THEODORIDIS, MATTIE SPIRES-MORGAN and
4 JEREMY DEJUSUS are Citizens of the United States and residents of the territorial jurisdiction of this
5 court. Specifically, the City and County of San Francisco and the State of California. At all times
6 relevant plaintiffs were employees of Defendant CITY AND COUNTY OF SAN FRANCISCO as
7 deputy sheriff's in the Sheriff's Department of the City and County of San Francisco.

8 5. At all times relevant plaintiffs were employed in the City and County of San Francisco, State of
9 California, and were discriminated against within the City and County of San Francisco.

10 **C. Identity of Defendants**

11 6. Defendant CITY AND COUNTY OF SAN FRANCISCO is a public entity operating and doing
12 business in the City and County of San Francisco, State of California. At all relevant times, Defendant
13 CITY AND COUNTY OF SAN FRANCISCO, was and is an employer within the definition of
14 employer as defined for the purposes of discrimination under Title VII (42 USC 2000 e) and the Fair
15 Employment and Housing Act Government Code §§12900, *et seq.*, (herein referred to as "FEHA") in
16 that said defendant employed more than twenty thousand employees, more than the minimum number of
17 persons in the State of California to be classified as an employer under Title VII and FEHA.

18 7. At all relevant times, Defendant CITY AND COUNTY OF SAN FRANCISCO, was and is an
19 employer within the definition of employer as defined for the purposes of discrimination under The
20 Civil Rights Act of 1964, (42 USC 2000 e) and the Fair Employment and Housing Act, California
21 Government Code §§12900, *et seq.*, (herein referred to as "FEHA") in that said defendant employed
22 more than fifteen employees, more than the minimum number of persons in the State of California to be
23 classified as an employer under Title VII and FEHA.

24 8. That the conditions of employment occurred to the plaintiffs listed herein. As said complaint has
25 been raised, defendant has chosen to ignore the complaints of discrimination, and have instructed the
26 victims of said discrimination, including the plaintiffs here, to be silent and or move to another job or get
27 another job rather than carry out there statutory duty to eliminate all forms of illegal discrimination. The
28 changing of positions of these plaintiffs, to the extent that such change has occurred, has not reduced the
incidents of discrimination but rather, has necessarily caused the harm of such discrimination to be felt
by additional and new victims of such discriminatory conduct.

9. At all times relevant, Defendant City and County of San Francisco was prohibited from using gender as a basis for discrimination in the assignment of work in the jail by the laws of the State of California in California Penal Code Section 4021(b) which states: "It shall be unlawful for any ... jailer ... to search the person of any prisoner of the opposite sex, except in the company of an employee of the same sex as the prisoner. Except as provided herein, the provisions of this subdivision shall not be applied to discriminate against any employee by prohibiting appointment or work assignment of the basis of the sex of the employee.

D. History Giving Rise To Suit

(i) Discrimination In Employment Against Female Deputies By Defendants

10. PAMELA WALKER, GWENDOLYN HARVEY-NOTO, FELISHA THOMAS, JENNIFER KEETON, OLGA KINCADE, MATTIE SPIRES-MORGAN, and EMIKO THEODORIDIS were treated less favorably because of their gender, female.

11. On or about October 4, 2006, all female inmates were collected from other sections of the San Francisco County Jail system, many of whom had mail deputy sheriff's as their jailers, and then moved to and reassigned to all inclusive sections unattainable by other sections, (known as "pods") in the San Francisco County Jail, specifically County Jail # 8, ("CJ#8").

12. Assignment of deputies in CJ#8 was realigned so that the female pods in CJ#8 housed only female prisoners which were staffed by only female deputies.

13. On multiple occasions, letters and grievances were directed to the supervisors in charge, including Sheriff Hennessey, notifying them of the discriminatory assignment of only female deputies to the female pods of CJ#8 (see below). The Sheriff's Department past practice had been that the primary deputy be female while the backup can be male. This practice was inconsistent with, in violation of, and in excess of the authorization for gender consideration found in the California Penal Code 4021 which states that a female deputy must be available and accessible for female inmates at all times, not that only female deputies can be assigned to female pods. Penal Code Section 4021 specifically prohibits gender based discriminatory work assignments in said female pods and elsewhere in the jail system.

14. Notably, in most, if not all federally operated and California state prisons, men and women have consistently staffed both the male and female pods and jail facilities without regard to gender of the staff or of the prisoner. There is no practice in the federal and California state prison and jail system that excludes males from working in jails and prisons which house women.

1 15. However, in the San Francisco County Jail system, effective October 4, 2006, the City and
2 County of San Francisco, by and through the Sheriff's Department, instituted a new policy of
3 consolidating and housing all female inmates in one area, County Jail # 8, ("CJ#8"), more particularly in
4 three sections of the jail, commonly referred to as "pods," and using only female deputies to staff these
5 three female pods,

6 16. By written directive of October 18, 2007, from Chief Arata to all of the jails, those female
7 deputies previously assigned to other jails, specifically County Jail 1 and 2, were reassigned to CJ#8.

8 17. The assignment of female deputies, including the female plaintiff employees, causes harm to
9 such female employees over and above the harm encountered by male deputies. Female deputies
10 working female only pods are constantly and continually put at a great risk of harm above and beyond
11 that experienced by male deputies who do not work the female side of the jail.

12 18. In the San Francisco jails and elsewhere, female inmates are more difficult to supervise than
13 male inmates. Female inmates require more attention, are more disruptive and tend to be more violent
14 towards each other and these deputies, and are allowed access to more dangerous items as compared to
15 male inmates.

16 19. Female deputies assigned to and supervising female inmate pods are exposed to increased risk of
17 physical harm since they work alone for periods of time (lunch, dinner, breaks, midnight shift) which
18 increases the risk of harm to these female deputies. Male and female deputies supervising male inmates
19 generally have at least two deputies per male inmate pod. When dealing with male prisoners in male
20 pods, during meal breaks a supervisor will fill in to maintain the two deputy minimum.

21 20. The female pods are generally designated for specific numbers of prisoners per pod. However,
22 due to overcrowding and the lack of space and bedding, the female pods of CJ#8 are often overcrowded
23 beyond their capacity. For example, in May, June and July 2007, there were many instances of
24 overcrowding by as much as 20 inmates in excess of the 86 capacities for the female pod which far
25 exceeded the available bed space. The male pods do not suffer from excessive numbers of inmates as
26 they are generally shipped to other jails when they arrive and no bed space is available. This condition,
27 and the limited number of female deputies, increases the risk of harm, the risk that one or two female
28 deputies would be hurt or killed in the situation, and increases the stress on female deputies beyond
those suffered by male deputies. Inmates have a history of attacking other inmates and harming the
inmates, such as attacks with hot scalding water causing second degree burns, where, in this setting there
is overcrowding and a lack of female deputies to supervise the situation safely.

21. Further, overcrowding is exacerbated by a policy in which inmates confined by reason of Parol Revocation and pending Parol Hearings are given priority and space in CJ#8. San Francisco County Jails receive funds from the Department of Corrections, State of California, for housing Parolees awaiting hearings. San Francisco County female inmates are forced to sleep on the floor having their bed reassigned to the Parol inmate. Female deputies are thus forced to quell the fights and hostility created by this situation which is rarely encountered in the male only pods.

22. In the female pods, lights are not kept on 24 hours a day as is the case with most male pods (e.g. F Pod). This increases the chance of danger to the sole female deputy watching over the inmates as she cannot see where potential conflicts may arise, and is unequipped to handle any conflicts if they arise due to a lack of personnel, especially when compared to her counterpart working the male pods.

23. Due to the policy of female only deputies in female pods, female deputies are often assigned a transfer and detailed to these female pods without training and without understanding of the security procedures for the operation of their position. Assignment without training places all of the employees, inmates and deputies at greater risk of injury and places the security of the jail at higher risk.

24. The female population at CJ#8 is more dangerous than the population in the all male sections. Female pods have all of the female population, including those who are unusually violent and dangerous, randomly placed in the pod without regard to classification for security purposes, including their history and level of danger. Female pods have those who are emotionally distressed and dangers to themselves mixed in with normal prisoners. Female pods have those who are classified as, and have an extensive history of violence, mixed in with the general female population, (e.g. MR3's and MR4's). The male pods do not have such mixture of the various levels of dangerous prisoners. The male pods have the dangerous prisoners segregated out and placed in special cells with extra deputies assigned to handle those dangerous male prisoners.

25. The female pods for female prisoners have no equipment or facilities to safely handle those who are dangerous, while male cells do have special means for handling dangerous prisoners. Male pods have special doors and equipment to have the prisoner in leg and body chains before exiting the cell to preclude an attack on the deputy. No such equipment or facilities is in place to handle the female prisoners, thus allowing more frequent violent attacks against the female deputies in the female pods.

26. Female deputies who are assigned to these female pods have to perform substantial administrative work, such as passing out medication, delivery of food and replacement clothing, which takes there attention off of the other members of the pods and increases the level of safety risk for the

1 deputy. The male cells rarely have less than two deputies working and adjust for such a shift in the
2 deputy staffing.

3 27. Female deputies who are assigned to these female pods fail to get training in many other security
4 positions and fail to get adequate use of the facility to operate it in a safe manner. In order to give the
5 appearance of complying with internal orders and California jail management standards, management,
6 including defendants here, have knowingly and intentionally created false and misleading
7 documentation to demonstrate that certain female deputies assigned to female pods have been trained
8 and certified as competent to work other jail assignments when no such training and no such
9 certification has occurred.

10 28. Female deputies who are assigned to these female pods fail to have the opportunity to function
11 in other positions, thus limiting their ability to compete for promotion when compared to others who
12 work in and function in numerous other positions.

13 29. Male deputies assigned to CJ#8 and similar jails enjoy a variety of assignments which relieve
14 and reduce fatigue and stress. Female deputies who are assigned to these female pods do not enjoy a
15 variety of assignments, have increased fatigue from this singular assignment, and have exacerbation of
16 this condition by repeatedly being forced to work additional shifts in these pods while in a fatigued state,
17 thereby additionally increasing their own risk of physical harm from female inmates.

18 30. Female deputies who are assigned to these female pods have their choice of other benefits of
19 employment such as shift, regular days off (RDOs) and vacation schedule limited because their seniority
20 is no longer the determining factor for receiving such benefits, though it is called for under the rules of
21 the Sheriff's Department and the applicable Memorandum of Understanding to be a determining factor
22 in the distribution of benefits, including days off, vacation and shift assignments.

23
24 **(ii) Discrimination In Employment Against Male Deputies By Defendants**

25 31. Plaintiff JEREMY DEJUSUS has been treated less favorably because of gender, male.

26 32. Since the segregation and movement of all the female inmates into one section on or about
27 October 4, 2006, the Department also implemented a seniority based shift bidding process and a shift
28 bidding process for regular days off, ("RDOs") and shift assignment that is segregated by gender.
Instead of having RDOs and shift assignment based on seniority, as has been the practice for years and
is required under the collective bargaining agreement, it has been based on gender first since October
2006. This has resulted in some of the more senior male deputies having to take less favorable RDOs

1 and shift assignments than would be the case if it were based on seniority. When, in 1994-5, defendant
2 attempted such gender based discrimination, complaints were raised and the department relented,
3 admitting it was unlawful gender based discrimination.

4 33. When it is necessary to recruit deputies for overtime in the female pods of CJ#8, it is posted in
5 writing by the San Francisco Sheriff's Department as overtime available to "female only," effectively
6 eliminating and discouraging any male deputies from signing up for overtime in CJ#8. On rare
7 occasions when only a male deputy can be found to fill the shift, he is then placed in overtime status and
8 traded to another facility for a female who then is assigned to work CJ#8. This puts both deputies at
9 increased risk of physical harm in a facility with which he/she is not familiar and an increased risk of
10 discipline for having made erroneous decisions in the booking, handling and release of prisoners in their
11 custody.

12 34. By the policy since October 2006, male deputies are discriminated against based on their gender
13 in their ability to work overtime and earn wages from those hours. Overtime signups are supposed to be
14 based on seniority, with more senior deputies getting preference for available overtime. However, due
15 to the practice of staffing only female deputies in the female pods of CJ#8, less senior female deputies
16 are given opportunity for overtime that would otherwise be given to more senior male deputies. Thus,
17 male deputies who are seeking overtime work, who are ready, willing and able to work, have been
18 deprived work and therefore deprived income, as a result of this policy of having only female deputies
19 assigned to work the female only pods of the San Francisco County Jail.

20 35. The San Francisco Sheriff's Department has a rule, policy and procedure which precludes and/or
21 makes it very difficult for those who complain of gender based discrimination to do so without violating
22 rules, being brought up on disciplinary charges and otherwise being harmed for complaining of illegal
23 forms of discrimination, including gender based discrimination in employment. Notably, there are
24 some pods mixed with male and female prisoners where men are permitted to work.

25 **E. Internal Complaints, Administrative Complaints And Issuance of Right To Sue**

26 36. The plaintiffs herein, and in the companion suit, titled, *Ambat v. City and County of San*
27 *Francisco*, United States District Court Number CV 07-03622 SL, have provided numerous internal
28 complaints, administrative complaints and secured right to sue letters or otherwise exhausted
administrative procedures.

37. On or about October 2, 2006, on behalf of each of the plaintiffs herein, the San Francisco Deputy

1 Sheriff's Association did write to Sheriff Michael Hennessey objecting to the policy in question as
2 illegal gender based discrimination. On or about October 18, 2006, in response to the letter sent to
3 Sheriff Michael Hennessey, Chief Arata indicated that the Sheriff's Department would continue with the
4 two tiered gender based assignment of hours and working conditions pursuant to the new policy.

5 38. On or about October 18, 2006, on behalf of each of the plaintiffs herein, the San Francisco
6 Deputy Sheriff's Association did write to Director of Employee Relations, Department of Human
7 Resources, for the City and County of San Francisco objecting to the policy as illegal gender based
8 discrimination.

9 39. On or about October 19, 2006, on behalf of each of the plaintiffs herein, the San Francisco
10 Deputy Sheriff's Association did write to Under Sheriff Jan Dempsey objecting to the policy as illegal
11 gender based discrimination and offering alternatives to the female deputy only policy in female only
12 pods. The offer was rejected.

13 40. Shortly after the institution of female only deputies in female only pods on or about October 7,
14 2006, numerous deputy sheriffs complained of said actions as discriminatory and harmful to women in
15 muster to her immediate supervisors. Thereafter, since their immediate supervisors refused to talk with
16 them, towards the end of October 2006, various deputy sheriff's approach and complain directly to the
17 top manager at her unit, specifically Chief Thomas Arata, the top level jail commander. After voicing
18 complaints to him, he dismissed the complaint and rejected receipt of the complaint stating that the
19 deputies failed to follow the chain of command. Deputy sheriff's told Arata that they had complained
20 and that their supervisor did not respond except to retaliate against them. Arata told that he would talk to
21 Captain Pecot. Nothing further happened and at no time did Captain Pecot approach alter the
22 discriminatory response or halt her retaliatory conduct, in fact her and Chief Arata intensified their
23 retaliatory conduct.

24 41. In addition to verbal complaints, various other deputies filed a complaint of gender based
25 discrimination with the Department of Fair Employment and Housing on December 4, 2006. Said
26 Department of Fair Employment and Housing issued a right to sue letter to plaintiff in this matter on or
27 about December 13, 2006.

28 42. Further and in addition to the other complaints, some deputy sheriff's have filed a complaint of
gender based discrimination with the Superior Court of California in the City and County of San
Francisco on or about February 20, 2007, which suit has been dismissed.

43. After months of verbal complaints, on February 25, 2007, various deputies drafted a written

1 grievance regarding outstanding safety issues in the female pod of CJ#8 due to the gender based
2 discriminatory policy for assignment of female deputies to the female pods, which included short
3 staffing due to the refusal to place available men in the female pots, and lighting differences in the
4 female pods creating an even greater unsafe work place. Plaintiff also complained in writing of the
5 safety issues created by having only one deputy for the entire pod where that deputy is responsible for
6 providing food and providing the medications, which left no one attentive to the remainder of the pod
7 and the security needs for the remainder of the pod. The Sheriff's Department and Lieutenant Minor
8 only laughed at these complaints.

9 44. On or about March 7, 2007, various deputies presented a written complaint of gender based
10 discrimination of only female deputies in female only pods to Sheriff Michael Hennessy, citing safety,
11 lack of opportunity for experience for promotions, and a loss of moral in being subjected to this system
12 of gender based assignments and risks. On or about March 20, 2007, Sheriff Hennessy wrote to
13 Plaintiff without justifying a female deputy only policy in female pods. He rejected her complaint and
14 stated, "a condition of employment with this Department is the willingness to work in any assignment,
15 on any shift, with any days off. I am disappointed when employees forget this and believe that they are
16 somehow entitled to work some, but not all, assignments within the Department. .. Finally, if you find
17 you are stressed for any reason, I suggest you contact the Employee Assistance Program. They offer a
18 range of services to help people manage the stress in their lives."

19 45. Plaintiffs complained, by means of cross-filing with the United States Government, the Equal
20 Employment Opportunity Commission, on or about November 15, 2007, and received a Right to Sue on
21 said claim of Discrimination and or Retaliation on or about February 19, 2008.

22 46. That by means of cross filing with the EEOC for and on behalf of the Department of Fair
23 Employment and Housing, on or about November 15, 2007, all plaintiffs filed their complaint of
24 discrimination and/or retaliation with the Fair Employment and Housing Department of the State of
25 California. That on or about January 16, 2008, and pursuant to the cross filing agreement between the
26 EEOC and the DFEH, a right to sue on behalf of the claims under the Fair Employment and Housing
27 Act were filled, Plaintiffs have filed suit within one year of the issuance of the right to sue letters under
28 the Fair Employment and Housing Act and within 90 days of the issuance of same under Title VII by the
EEOC.

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FIRST CAUSE OF ACTION

(Gender Discrimination, Title VII, Civil Rights Act of 1964 (42 USC 2000(e) et seq)
 (Plaintiffs v. Defendant City and County of San Francisco)

47. Plaintiffs incorporate each of the foregoing allegations of this complaint as is set forth here.

48. Defendant City and County of San Francisco, were, at all times relevant, an employer within the meaning of the Civil Rights Act of 1964 (42 USC 2000(e) et seq.) Specifically, that at all times relevant the said defendant carries on activities which affects commerce within and employs more than 15 people. (42 USC 2000e (b) and (h))

49. At all relevant times, Plaintiffs were employed by the Defendant CITY AND COUNTY OF SAN FRANCISCO.

50. Plaintiffs PAMELA WALKER, GWENDOLYN HARVEY-NOTO, FELISHA THOMAS, JENNIFER KEETON, OLGA KINCADE EMIKO THEODORIDIS and MATTIE SPIRES-MORGAN were treated less favorably in the terms and conditions of employment and sustained numerous adverse actions as a result of their gender, to wit female, in that they were:

- (a) Exposed to increased risk of physical harm over their male deputies due to conditions of the female pods, as cited above, that these female deputies are forced to work in;
- (b) Exposed to increased risk of physical harm over their male counterparts due to the lack of adequate staffing, as cited above;
- (c) Exposed to increased risk of physical harm over their male counterparts due to depravation of equipment and facilities to handle the inmates which pose a greater risk of physical injury due to mental and emotional stability issues;
- (d) Exposed to increased risk of physical harm over their male counterparts by mixing a mental and emotionally unstable group with others;
- (e) Compelled to work harder with inmates who are more difficult than male inmates.
- (f) Female inmates require more attention and are more violent towards each female plaintiff;
- (g) These female plaintiffs routinely work though breaks and lunch periods in order to protect themselves and their partner from the risk of physical harm exacerbated by supervising the pod alone, and are deprived pay and compensation for such work;
- (h) Limited in their job duties and posts compared to their male counterparts limiting their ability to compete for advancement;

- (i) Some female deputies have been subject to falsification of their achievements and trainings by Department managers who refused to permit them to train at other posts in order to preserve their position in CJ#8;
- (j) Some female deputies have been harmed and reduced in their ability to promote and secure advancement;
- (k) Some female deputies have been subjected to increased levels of job stress as compared to their male counterparts.

51. At all relevant times during their employment, these female Plaintiffs were treated less favorably than others who are male seeking and holding employment with Defendant City and County of San Francisco, due to plaintiffs' gender, and within 300 days of such adverse discriminatory actions they filed discrimination claims with the Equal Employment Opportunity Commission for use by the EEOC and for cross filing with the DFEH.

52. As a result of the discriminatory practice of assigning only female deputies to female pods of CJ#8, Plaintiffs suffered general damages and emotional distress due to the acts of discrimination.

53. Plaintiff DEJESUS has been treated less favorably because of gender, male, in the terms and conditions of employment and sustained numerous adverse actions in that he was:

- (a) Denied overtime work and pay;
- (b) Reduced in their ability to promote and secure advancement due to elimination of opportunity to function at various posts.

54. At all relevant times during their employment, this male Plaintiff was treated less favorably than others who are female seeking and holding employment with Defendant City and County of San Francisco, due to plaintiffs' gender, and within 300 days of such adverse discriminatory actions they filed discrimination claims with the Equal Employment Opportunity Commission for use by the EEOC and for cross filing with the DFEH.

55. As a result of the discriminatory practice of assigning only female deputies to female pods of CJ#8, each of the Plaintiffs have suffered general damages and loss of income due to the acts of discrimination.

WHEREFORE, plaintiffs pray judgment against defendants as set forth below:

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SECOND CAUSE OF ACTION

(Gender Discrimination, FEHA (California Government Code § 12940 (a))
 (Plaintiffs v. Defendant City and County of San Francisco)

56. Plaintiffs incorporate each of the foregoing allegations of this complaint as is set forth here.

57. Defendant CITY AND COUNTY OF SAN FRANCISCO, is and was, at all times relevant, an employer as defined by California Government Code Section 12926. That at all times relevant the said defendant carries on activities which affects commerce within and employs more than five (5) people.

58. At all relevant times, Plaintiffs were employed by the CITY AND COUNTY OF SAN FRANCISCO.

59. As part of that employment, Plaintiffs PAMELA WALKER, GWENDOLYN HARVEY-NOTO, FELISHA THOMAS, JENNIFER KEETON, OLGA KINCADE EMIKO THEODORIDIS, and MATTIE SPIRES-MORGAN were treated less favorably in the terms and conditions of employment and sustained numerous adverse actions as a result of their gender, to wit female, in that they were:

- (a) Exposed to increased risk of physical harm over their male deputies due to conditions of the female pods, as cited above, that these female deputies are forced to work in;
- (b) Exposed to increased risk of physical harm over their male counterparts due to the lack of adequate staffing, as cited above;
- (c) Exposed to increased risk of physical harm over their male counterparts due to deprivation of equipment and facilities to handle the inmates which pose a greater risk of physical injury due to mental and emotional stability issues;
- (d) Exposed to increased risk of physical harm over their male counterparts by mixing a mental and emotionally unstable group with others;
- (e) Compelled to work harder with inmates who are more difficult than male inmates.
- (f) Female inmates require more attention and are more violent towards each female plaintiff;
- (g) These female plaintiffs routinely work through breaks and lunch periods in order to protect themselves and their partner from the risk of physical harm exacerbated by supervising the pod alone, and are deprived pay and compensation for such work;
- (h) Some female deputies have been limited in their job duties and posts compared to their male counterparts limiting their ability to compete for advancement;
- (i) Some female deputies have been subject to falsification of their achievements and

trainings by Department managers who refused to permit them to train at other posts in order to preserve their position in CJ#8;

(j) Some female deputies have been harmed and reduced in their ability to promote and secure advancement;

(k) Some female deputies have been subjected to increased levels of job stress as compared to their male counterparts.

60. At all relevant times during their employment, these female Plaintiffs were treated less favorably than others who are male seeking and holding employment with Defendant City and County of San Francisco, due to plaintiffs' gender, and within one year of such adverse discriminatory actions they filed discrimination claims with the Department of Fair Employment and Housing within the last 12 months who issued a right to sue letter within the last 12 months, as stated above.

61. As a result of the discriminatory practice of assigning only female deputies to female pods of CJ#8, Plaintiffs suffered general damages and emotional distress due to the acts of discrimination.

62. Plaintiffs JEREMY DEJUSUS has been treated less favorably because of gender, male, in the terms and conditions of employment and sustained numerous adverse actions in that they were:

(a) Denied overtime work and pay;

(b) Reduced in their ability to promote and secure advancement due to elimination of opportunity to function at various posts.

63. At all relevant times during their employment, these male Plaintiffs were treated less favorably than others who are female seeking and holding employment with Defendant City and County of San Francisco, due to plaintiffs' gender, and within 300 days of such adverse discriminatory actions they filed discrimination claims with the Equal Employment Opportunity Commission for use by the EEOC and for cross filing with the DFEH, as aforesaid above.

64. As a result of the discriminatory practice of assigning only female deputies to female pods of CJ#8, each of the Plaintiffs have suffered general damages and loss of income due to the acts of discrimination.

WHEREFORE, plaintiffs pray judgment against defendants as set forth below:

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THIRD CAUSE OF ACTION

(Gender Employment Restrictions Title VII (42 USC 2000(e))
(Plaintiffs v. Defendant City and County of San Francisco)

65. Plaintiffs incorporate each of the foregoing allegations of this complaint as is set forth here.

66. That in order to preclude and prevent discrimination and to thwart the badges of discrimination, any and all attempts to exclude any gender from participating in seeking employment is precluded by Title VII (42 USC 2000(e)).

67. That as a result of having created the female pods in CJ#8, and having a policy and practice to exclude males from employment in said pods, since October 2006, Defendant CITY AND COUNTY OF SAN FRANCISCO did advertise and limit the opportunity for employment in the female pods to female deputies by means of written notice and postings, all in violation of Title VII (42 USC 2000(e))

68. That as a result of violations of Title VII (42 USC 2000(e)) plaintiffs have been injured.

WHEREFORE, plaintiffs pray judgment against defendants as set forth below:

FOURTH CAUSE OF ACTION

(Advertisement for Gender Discrimination, FEHA (California Government Code § 12940 (d))
(Plaintiffs v. Defendant City and County of San Francisco)

69. Plaintiffs incorporate each of the foregoing allegations of this complaint as if set forth here.

70. That in order to preclude and prevent discrimination and to thwart the badges of discrimination, any and all attempts to exclude any gender from participating in seeking employment is precluded by California Government Code Section 12940 (d).

71. That as a result of having created the female pods in CJ#8, and having a policy and practice to exclude males from employment in said pods, since October 2006, Defendant CITY AND COUNTY OF SAN FRANCISCO did advertise and limit the opportunity for employment in the female pods to female deputies by means of written notice and postings, all in violation of California Government Code Section 12940 (d).

72. That as a result of said violations of California Government Code Section 12940 (d), plaintiffs have been injured as aforesaid.

WHEREFORE, plaintiffs pray judgment against defendants as set forth below:

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FIFTH CAUSE OF ACTION

(Retaliation For Protected Activity (28 USC 2000e)
(Plaintiff Morgan-Spires v. Defendant CCSF)

73. Plaintiffs incorporate each of the foregoing allegations of this complaint as is set forth here.

74. That motivated as retribution for plaintiffs having engaged in a protected activity, complaining to their superiors, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the Superior Court of California, and the United States District Court in the companion case of *Ambat v. City and County of San Francisco*, United States District Court Number CV 07-03622 SL,, of the unlawful form of gender based discrimination and/or the resulting harm, injury, and increased risk of harm and injury, Plaintiff Mattie Morgan Spires suffered losses and adverse actions as a result of said complaints;

75. As a result of retaliation by Defendants CCSF, and in addition to the retaliation complained of in the companion case of *Ambat v. City and County of San Francisco*, United States District Court Number CV 07-03622 SL, for such protected activity, defendant has taken numerous and various actions and inactions with the likely effect to prevent this plaintiff and others from complaining about gender based discrimination, including having taken adverse employment actions, disciplinary actions, and the like.

76. Said actions are in violation of 28 USC 2000e, retaliation for having participated in a protected activity, complaining of gender based discrimination in the workplace.

77. As a result of such retaliatory discrimination and conduct, plaintiffs have suffered general and special damages in an amount exceeding the jurisdictional minimum of this court.

WHEREFORE, plaintiffs pray judgment against defendants as set forth below:

SIXTH CAUSE OF ACTION

(Retaliation For Protected Activity (California Government Code § 12940(h)))
(Plaintiff Morgan-Spires v. Defendant CCSF)

78. Plaintiffs incorporate each of the foregoing allegations of this complaint as is set forth here.

79. That motivated as retribution for plaintiffs having engaged in a protected activity, complaining to their superiors, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the Superior Court of California, and the United States District Court in the companion case of *Ambat v. City and County of San Francisco*, United States District Court Number CV 07-03622 SL,, of the unlawful form of gender based discrimination and/or the resulting harm, injury, and increased risk of harm and injury, Plaintiff Mattie Morgan Spires suffered losses and adverse actions as

1 a result of said complaints;

2 80. As a result of retaliation by Defendants CCSF, and in addition to the retaliation complained of in
3 the companion case of *Ambat v. City and County of San Francisco*, United States District Court Number
4 CV 07-03622 SL, for such protected activity, defendant has taken numerous and various actions and
5 inactions with the likely effect to prevent this plaintiff and others from complaining about gender based
6 discrimination, including having taken adverse employment actions, disciplinary actions, and the like.

7 81. Said actions are in violation of California Government Code Section 12940 (h), retaliation for
8 having participated in a protected activity, complaining of gender based discrimination. As a result of
9 such retaliation, plaintiffs have suffered general and special damages in an amount exceeding the
jurisdictional minimum of this court.

10 WHEREFORE, plaintiffs pray judgment against defendants as set forth below:

11
12 **SEVENTH CAUSE OF ACTION**

13 (Failure to Prevent Discrimination/Retaliation (Government Code § 12940(k))
(Plaintiffs v. Defendant City and County of San Francisco)

14 82. Plaintiffs incorporate each of the foregoing allegations of this complaint as is set forth here.

15 83. Defendant had an affirmative duty to take all reasonable steps necessary to prevent
16 discrimination on the basis of and due to Plaintiffs' gender as mandated by Government Code 12940 (k).

17 84. Defendant breached their affirmative duty to take all reasonable steps necessary to prevent
18 discrimination and provide accommodations and breached such affirmative duty to Plaintiffs.

19 85. As a result of the failure to take all reasonable steps, including the failure to train, monitor,
20 protect, enforce, and oversee the mandates for anti-discrimination rules Plaintiffs have been injured in
the manner set forth herein.

21 86. As a result of such intentional discrimination, Plaintiffs have suffered general and special
22 damages in an amount exceeding the jurisdictional minimum of this court.

23 87. As a proximate result of Defendant's discriminatory actions against plaintiffs, plaintiffs have
24 suffered a loss of income and future income loss, in an amount not yet determined and plaintiffs pray
25 leave that when these amounts are known, that they may amend this complaint to allege such amounts.

26 88. As a result of Defendant's discriminatory actions against plaintiffs, plaintiffs have suffered a loss
27 of income and medical expenses in an amount not yet determined and Plaintiffs pray leave that when
28 these amounts are known, that they may amend this complaint to allege such amounts.

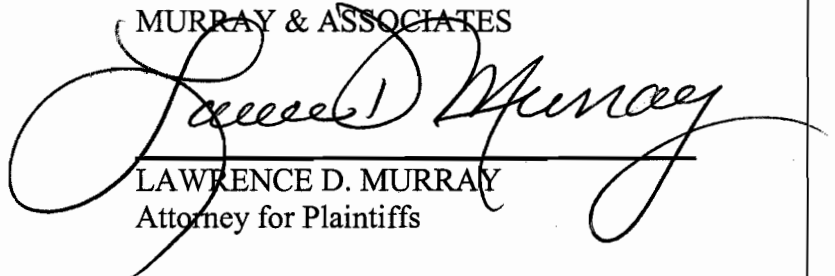
1 **WHEREFORE**, plaintiffs pray judgment against defendants as follows:

- 2 a. For a money judgment awarding Plaintiffs a sum according to proof as general
3 damages for pain and emotional distress, anguish and suffering against defendant;
4 b. For a money judgment representing compensatory damages including lost wages, and
5 all other sums of money, including future benefits and future wage loss, retirement
6 benefits, together with interest on said amounts, according to proof;
7 c. For a money judgment representing compensatory damages including medical
8 expenses and other special expenses for treatment and care, and all other sums of
9 money necessary to care for the Plaintiffs as a result of the conduct of Defendants.
10 d. For an injunction commanding that Defendant City and County of San Francisco
11 Sheriff's Department, and any subsequent affiliated corporation or business entities,
12 post, train, and enforce the rights of all employees under the Fair Employment and
13 Housing Act, to be free of discrimination, harassment and retaliation;
14 e. For punitive damages according to proof against each of the defendants;
15 f. For costs of suit, including attorneys' fees; and
16 g. For any other relief that is just and proper

17 DATED: May 9, 2008

Respectfully submitted,

MURRAY & ASSOCIATES

18 
19 LAWRENCE D. MURRAY
20 Attorney for Plaintiffs

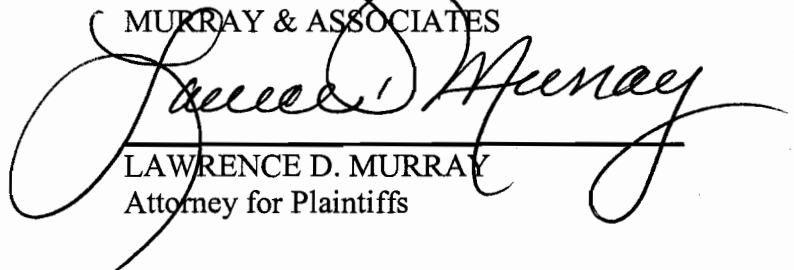
21 JURY TRIAL DEMANDED

22 Plaintiffs hereby demand a jury trial on all claims contained in her complaint before this court.

23 DATED: May 9, 2008

Respectfully submitted,

MURRAY & ASSOCIATES

24 
25 LAWRENCE D. MURRAY
26 Attorney for Plaintiffs
27
28

JS 44 (Rev. 12/07) (and rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

Pamela Walker, et al.

E-filing

DEFENDANTS

City and County of San Francisco

(b) County of Residence of First Listed Plaintiff San Francisco
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Lawrence D. Murray (SBN 77536) (415) 673-0555
Murray & Associates
1781 Union Street
San Francisco, CA 94123

County of Residence of First Listed Defendant San Francisco
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug Act <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
			SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus—Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 2000(e)

Brief description of cause:

Plaintiffs were and continue to be discriminated and retaliated due to their gender by the SF Sheriff's Dept.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐ DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE

"NOTICE OF RELATED CASE". Ambat vs. CCSF: USDC Northern Dist. Case No. 3:07-cv-03622-SI

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE

May 9, 2008

SIGNATURE OF ATTORNEY OF RECORD

Lawrence D. Murray

Court Name: U.S. District Court, NDCA
Division: 3
Receipt Number: 34611019027
Cashier ID: bucklem
Transaction Date: 05/09/2008
Payer Name: MURRAY AND ASSOCIATES

CIVIL FILING FEE

For: pamela walker
Case/Party: D-CAN-3-08-CV-002406-001
Amount: \$350.00

CHECK

Check/Money Order Num: 13579
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

pjh

Checks and drafts are accepted
subject to collections and full
payment will only be given when the
check or draft has been accepted by
the financial institution on which
it was drawn.